

EXHIBIT O

1 UNITED STATES BANKRUPTCY COURT
2 FOR THE DISTRICT OF DELAWARE

3

4 ----- X

5 In re: :Chapter 11

6 FEDERAL-MOGUL GLOBAL, :Case No. 01-1-578 (RTL)

7 INC., et al., :Jointly Administered

8 Debtors. :

9 ----- X

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13 Deposition of Mark A. Peterson, Ph.D.

14 Washington, D.C.

15 Friday, December 3, 2004

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20 Pages 1 - 288

21 Job No.: 164539

22 Reported by: Deborah Larson Hommer, RPR

1 other reasons, too, including the fact that
2 these were values that were accepted by the
3 plan proponents as well as the fact that, in
4 my view, they are conservative estimates, and
5 indeed they're lower than the alternative
6 estimates that I have.

7 BY MR. STROCHAK:

8 Q. Let's turn just for a second
9 conceptually to the other calculations you
10 performed; that is, the calculations that you
11 performed to -- let me ask it this way: The
12 other calculations that you performed to
13 derive anticipated claim values, those were
14 used to determine whether the TDP values were
15 appropriate in your mind; is that a fair
16 statement of your analytical process?

17 MR. FINCH: Object to form.

18 THE WITNESS: No.

19 BY MR. STROCHAK:

20 Q. Okay. Explain for me why you
21 derived other predicted claim values other
22 than the TDP values.

1 A. Because I was trying to determine
2 reasonable estimates of the current values of
3 the claims -- asbestos bodily injury claims by
4 disease against Turner & Newall.

5 Q. Now, in doing these other
6 calculations, you started by determining the
7 value that Turner & Newall paid -- the average
8 value that Turner & Newall paid to
9 mesothelioma claimants for 2001; is that
10 correct?

11 THE WITNESS: I'm sorry. Could you
12 read the question?

13 (The reporter read the record as
14 requested.)

15 MR. FINCH: Object to form.

16 THE WITNESS: I continue to have a
17 problem with "start." I mean, I kind of
18 focused on mesothelioma well into the process.
19 I don't mean to be pedantic, but you've got to
20 understand what's the basis of the liability
21 for this company. A credible expert has to
22 understand the basis for liability to

1 understand why the values are what they are.

2 And so I started with looking at

3 the database that Turner & Newall had. I

4 started with understanding what the basis of

5 their liabilities were. I started reading

6 about it. I started with talking to

7 plaintiffs' lawyers about the values of it. I

8 started with knowing how the Center for Claims

9 Resolution resolved claims. I started by

10 talking to lawyers who represented Turner &

11 Newall in the underlying asbestos litigation.

12 And with all of that as a

13 background, then I had to begin to arrive at

14 quantitative determinations. I looked at the

15 database, and one of the steps that I did in

16 the database was to look at the trends in

17 current values of mesothelioma based upon all

18 the other things that preceded it.

19 So that wasn't the start of it, but

20 I did do calculations involving mesothelioma.

21 BY MR. STROCHAK:

22 Q. Let's turn to page 14 of your

1 report. In this section of your report you
2 estimated future increases in T&N's U.S.
3 settlement values, correct?

4 MR. FINCH: Object to form.

5 THE WITNESS: Section 6.1.4?

6 BY MR. STROCHAK:

7 Q. That's correct. I'm just reading
8 from the caption.

9 A. That's the title. That was the
10 intention, yes.

11 Q. And what you did in that section is
12 you calculated T&N's post-CCR average
13 mesothelioma payment in 2001, correct? And
14 that's the bottom line in Table 4?

15 A. Among other things, I did that,
16 yes. I did other quantitative steps, too.

17 Q. And you get to a number that's a
18 little shy of \$139,000, correct?

19 A. Yes.

20 Q. And that number represents your
21 calculation of the average mesothelioma
22 payment that T&N made, post CCR, in 2001? Let

1 And then simply just took the
2 average of the mesothelioma claims in those
3 two years. It's the same thing as doing a
4 weighted average of the two years. We just
5 looked at over the two-year period. And we
6 did a similar calculation for the settlements
7 in 2000 -- meso settlements in 2000 and 2001,
8 again, adjusting the year 2000 payments by
9 inflation to get 2001 dollars.

10 Q. So through that weighted average
11 calculation you are able to derive a rate of
12 increase, correct?

13 A. Several rates of increase. You can
14 look at it annually. You can look at it for
15 groups of years.

16 Q. And then you apply that rate of
17 increase to the weighted average for meso
18 settlements in 2000 and 2001, right?

19 A. We took specifically the increase
20 from settlements in '97 and '98 to settlements
21 in 2000 and 2001. That's a specific -- as I
22 mentioned, there are several different rates

1 of increase on page 14. But in the text above
2 Table 4 it identifies the rate of increase of
3 2.14 which is simply taken by -- derived by
4 taking the 2000/2001 average settlement and
5 dividing by the 1997/98 settlement. That
6 generates 2.14. We then multiply the
7 2000/2001 average by 2.14, and that generates
8 a \$210,000 figure.

9 Q. So you generate an estimate of
10 the -- you call it the current settlement
11 value of T&N mesothelioma claims as 210,000,
12 plus a little bit, right?

13 A. Yes.

14 Q. And then you do not perform a
15 similar calculation for other diseases,
16 correct?

17 A. That's correct.

18 Q. Instead, you use a ratio to
19 determine your average settlement values for
20 other diseases, right?

21 A. We use several alternative ratios,
22 yes.

1 Q. And those ratios are ratios of
2 payments for other diseases to the average
3 mesothelioma settlement values, correct?

4 MR. FINCH: Object to form. I

5 think --

6 THE WITNESS: Yes, let me be
7 specific. For lung cancer -- if you look on
8 Table 5, page 15, it gives ratios for eight
9 different asbestos defendants. And in each
10 case for each of those defendants those
11 numbers are derived by dividing the average
12 settlement for that company for the diseases
13 identified in the columns on Table 5 by the
14 average settlement for mesothelioma for that
15 defendant. And that generates those eight
16 ratios.

17 BY MR. STROCHAK:

18 Q. And what you've done here is you've
19 generated a ratio that links the payments or
20 the anticipated settlement values for other
21 diseases to mesothelioma, right?

22 A. Yes. It reflects the relative size

1 of settlements for diseases other than
2 mesothelioma relative to what the mesothelioma
3 settlements are for each of the eight
4 defendants, yes.

5 Q. And after you go through that
6 exercise of calculating those values, which I
7 think are reported in Table 6 of your report;
8 is that right?

9 A. For using -- it has three specific
10 calculations based on ratios from Babcock &
11 Wilcox, from Owens Corning and then what's
12 essentially kind of a modal or a median
13 approximation typical -- which also are
14 numbers that are tossed about generally by
15 people that do work like I do and work with
16 trusts and generally are familiar with what
17 the -- what payments are being made for
18 asbestos claims.

19 This notion of ratios is a commonly
20 used concept and it has been used in the past
21 and is used by people that deal with asbestos
22 claims in order to kind of understand what's

1 been happening with regard to the payments.

2 Q. I don't understand what you said.

3 You said something about numbers being tossed

4 around. I didn't understand that part of your

5 answer. What were you referring to when you

6 said something was tossed around?

7 A. I'm sorry. That's a flip

8 statement. Ratios like this are frequently

9 discussed by the subcommunity of people who

10 deal with arcane issues, such as what are the

11 values of asbestos claims -- people like

12 experts, judges, trust representatives,

13 plaintiffs' lawyers. They attend to and are

14 interested in what are the relative payments

15 made to each of the disease categories.

16 And so it's a subject matter of

17 some discussion, and it's a subject matter --

18 it's a calculation that has been used by

19 courts and experts in other circumstances to

20 set up trust distribution procedures, among

21 other things, to estimate liabilities in

22 bankruptcies and so on.

1 Q. So just to simplify it, if I could,
2 the concept here is that claims for other
3 diseases -- that is, diseases other than
4 mesothelioma -- would be expressed and, in
5 your view, it's common for them to be
6 expressed as a ratio of the payment that we
7 made on the mesothelioma claim, correct?

8 A. Yes.

9 Q. So, for example, if you just look
10 at --

11 A. Well, common -- I guess I have
12 some -- it's a calculation that is used and
13 discussed. It's commonality. Nothing is very
14 common when you're dealing with such an arcane
15 issue. But within people that are interested
16 in this, it's a concept that has been used and
17 is used.

18 Q. In your subcommunity, as you've
19 kind of described it?

20 A. Yes.

21 Q. So the basic concept is that if we
22 look at the scheduled values line on Table 6,

1 you have \$7,000 for nonmalignant claimants and
2 \$200,000 for mesothelioma claimants. And it
3 would just be, in your view, fairly common
4 within this subcommunity to just say, "Well,
5 nonmalignant claimants get 3-1/2 percent" --

6 A. 3-1/2 percent.

7 Q. -- "of what a mesothelioma claimant
8 would get."

9 A. No. I mean, I wouldn't agree to
10 the way you've asked your question. The
11 calculation is 3-1/2 percent. So someone who
12 has my set of kind of perverse interests in
13 the values of mesothelioma claims would say,
14 "Okay. Nonmalignants are 3-1/2 percent of
15 meso." That's a kind of calculation and
16 observation that someone like me might make.

17 They would know that the 3-1/2
18 percent is within the range of what you would
19 expect to see for these, and that's reflected
20 in the table above -- and indeed is maybe
21 somewhat conservative.

22 Q. Typically, that ratio would differ

1 from case to case, correct?
2 A. Well, of course. That's shown in
3 Table 5. It differs from case to case, but
4 within a range. And there's a fairly narrow
5 range of where one would find these numbers,
6 and that's demonstrated to Table 5.

7 Q. Okay. So if I could just move
8 forward in the basic building blocks of your
9 methodology here. You then -- once you've
10 derived your settlement averages, you then
11 figure out a dismissal rate; is that correct?

12 A. Yes. You need to do that as well.

13 Q. And the reason you do that is
14 because your methodology is to calculate what
15 you call an average -- excuse me -- an average
16 resolution cost, correct?

17 A. Well, the standard methodology is
18 to do that, and that's what I use here, yes.

19 Q. And that's what you use in your
20 report, is the standard methodology?

21 A. Yes.

22 Q. So you calculate an average

1 resolution cost. And the average resolution
2 cost is the product of your average settlement
3 value and the dismissal rate, correct? Or the
4 percent paid --

5 A. There are two parameters that
6 determine the average resolution cost. One is
7 the average settlement amount of money that's
8 paid to someone when they receive a payment.

9 The second parameter is what percentage of
10 people get paid.

11 It's useful to have both of them
12 because you want to look at both of those
13 parameters independently. There may be
14 different determinants of trends in those.

15 There are two things that you may want to look
16 at and -- vary independently. And indeed in
17 our sensitivity analysis we value both
18 independently.

19 So that's why it's commonly -- you
20 do both calculations, and then you generate
21 the product. But it's simpler to explain the
22 calculation and deal with the analysis if you

1 multiply them together, those two parameters
2 together, to get the average resolution.

3 Q. And as part of that process, you
4 have to calculate the dismissal rate -- well,
5 I shouldn't say -- let me not call it the
6 dismissal rate. You call it the percent paid
7 rate on Table 11, so I will use that
8 terminology.

9 A. Yes. One is the converse of the
10 other -- the complement of the other, but yes,
11 the percent paid rate.

12 Q. Right. So the dismissal rate --
13 for example, your mesothelioma percent paid
14 rate is 86.603 -- let's just round it to
15 87 percent. Your dismissal rate would just be
16 essentially 1 minus that or, if my math is
17 correct, 13 percent.

18 A. You do math well for a lawyer.

19 Q. That was an easy one.

20 A. The answer is yes.

21 Q. And I appreciate that.

22 Just tracking through your

1 methodology, you take your settlement
2 averages, which are the TDP derived values --
3 that's the middle column on Table 11?
4 A. This table has the TDP scheduled
5 values. There's different values in the TDPs,
6 so you need to be precise. These are the
7 scheduled values from the TDP with the
8 weighted averages for lung cancer and
9 nonmalignants. That's the second data column
10 on Table 11.

11 Q. And that's expressed in 2004
12 dollars, right?

13 A. Yes.

14 Q. And then you multiply that by the
15 percent paid, and that gives you the
16 resolution cost expressed in 2004 dollars,
17 right?

18 A. Correct.

19 Q. And then finally you do a
20 recalculation to turn it into 2001 dollars,
21 right? And that gives you --

22 A. We adjust for inflation to get 2001